

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

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KYKO GLOBAL, INC., et al,  
Plaintiffs,

vs

Civil Action  
No. 18-1290

PRITHVI INFORMATION SOLUTIONS, LTD, et al.,  
Defendants.

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Transcript of telephone status conference proceedings  
held on October 8, 2019, United States District Court,  
Pittsburgh, Pennsylvania, before the Honorable William S.  
Stickman, U.S. District Court Judge.

APPEARANCES:

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Proceedings recorded by digital stenography; transcript  
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## P R O C E E D I N G S

(By telephone conference call.)

MS. ABBOTT, DEPUTY CLERK: You are now connected to the conference.

THE COURT: Hello. This is the Judge --

MR. KING: Good morning, Judge Stickman. This is Mike Ginsberg at Jones Day.

THE COURT: Mr. Ginsberg, how are you?

MR. GINSBERG: I'm fine, thank you; how are you?

THE COURT: Okay, I think.

So it looks like we have another discovery dispute. I've read the parties' letters to one another, and I guess let's zero in on what issues are before the Court.

MR. MACYDA: Your Honor, this is Jayson Macyda on behalf of the Plaintiffs. I think today you have three issues in front of you: Whether or not the November 1 discovery cut-off date should be adjourned to January for the reasons set forth in our letter; two: I think the scope of the depositions, whether or not the inquiry includes just contacts with the State of Pennsylvania or the United States as well; and then, three: The length of the depositions.

THE COURT: Okay. Well, I would like to address those matters in reverse order.

I think that when it comes to length of the depositions, I understand that there are some back and forth

1 about scheduling all-day depositions. The Federal Rules of  
2 Civil Procedure give a presumptive seven hours for depositions.  
3 I think that it's presumed that attorneys using their  
4 professional expertise as to the case and the issues in the  
5 case will tailor depositions to the amount of time necessary to  
6 fully and fairly address the issues that are out there.

7 Both my order granting jurisdictional discovery and my  
8 order of -- I believe it was September the 25th, clarifying my  
9 September the 5th order, were clear -- or at least I tried to  
10 make them clear, that these depositions would be limited to  
11 jurisdictional contacts with this forum.

12 Look, I'm not the lawyer in the case. I can't imagine  
13 how it would take seven hours to address forum contacts with  
14 these -- with each of these witnesses and with the forum. But  
15 at the same time I don't think it's the role of the Court to  
16 hold the hand of the attorneys and tell them exactly what  
17 questions to ask and how long to do it in.

18 So what I'm inclined to say is subject to the other  
19 two pieces, the other two issues out there that we'll address,  
20 I'm inclined to say that I'm not going to set a hard timeframe.  
21 I'm going to set a timeframe based on substance. And what the  
22 substance is is what is in my prior two orders. I think  
23 that -- and this kind of bleeds into No. 2, the second issue  
24 that you've raised as to what is the scope of these  
25 depositions.

1           In the Court's view, the scope of these depositions is  
2 not a fishing expedition. It's not the merits of your claim.  
3 It's whether I can hear the merits of your claim, whether this  
4 Court has diversity jurisdiction in this district -- whether  
5 this Court has personal jurisdiction, actually, in this  
6 district is what the issue is, personal jurisdiction. And that  
7 requires contacts with this district to be established.

8           I read your submission back and forth about RICO and  
9 the broader service that you allege, rules governing RICO, but  
10 RICO still required -- RICO -- there's no universal personal  
11 jurisdiction under RICO. The RICO statute, specifically  
12 Section 1965, still requires that a RICO action be brought in a  
13 district which -- in which a person, the Defendant, resides, is  
14 found, has an agent, or transacts affairs. It still requires  
15 contacts.

16           So, again, not really having delved into the substance  
17 of your claims beyond reading what's in the complaint and the  
18 moving papers in this case, my understanding is that you've  
19 alleged a couple of financial transactions that went through  
20 this district and some presence, at least at some point, of  
21 some of these parties in this district. I don't know, but I  
22 think that --

23           MR. MACYDA: Your Honor, if I could briefly interrupt,  
24 we also allege financial transactions occurring in the State of  
25 Washington; and what we're alleging on the RICO context is that

1 the SSG Defendants were complicit and were involved in that --  
2 in that contact at a minimum out there in the State of  
3 Washington. Moreover, you have three Defendants, PISL, Madhavi  
4 Vuppalapati and Anandhan Jayaraman who were all based, as we  
5 set forth in our complaint and in our briefing papers, who were  
6 located in Pittsburgh.

7 So when we're looking at RICO and you're exercising  
8 federal question jurisdiction and, in particular, whenever our  
9 RICO predicate offenses is money laundering, which is an  
10 explicit territorial reach for foreign citizens who reach into  
11 the United States to engage in that conduct, that's why we  
12 submit that, of course, there has to be some connection to  
13 Pennsylvania, but the jurisdictional inquiry for purposes of  
14 RICO does not stop there. It looks at contacts relative to the  
15 United States as well.

16 THE COURT: So here's what the Court's view of this  
17 is. The Court's view is this: For this Court to exercise  
18 personal jurisdiction over the Defendants that have been sued  
19 in this case, there has to have been sort of minimum contacts  
20 with this -- with the Commonwealth of Pennsylvania and with  
21 this district, but with the Commonwealth under our long arm  
22 statute and with -- under US Supreme Court decisions about due  
23 process.

24 I understand that the claims that you have asserted  
25 are that the players involved in the transactions and in the

1 misconduct that you've alleged in your complaint engaged in  
2 activities in certain other jurisdictions as well. But I  
3 think -- and again it's not my job as the Court to craft your  
4 deposition strategies and your deposition questions. The focus  
5 of this has to be focused on discovery regarding contacts with  
6 this forum that would give this Court personal jurisdiction  
7 over the parties which you've sued.

8           To the extent that those contacts involve activities  
9 that occurred in -- through other jurisdictions, I understand  
10 that's part of any deposition. And in any deposition, in any  
11 case, there is a -- the parties are given some degree of  
12 latitude on how they frame their questions and get to the  
13 issue.

14           I don't think it's the job of the Court when we're --  
15 when the Court is dealing with professionals on the part of the  
16 counsel to have to sit and vet every question that comes forth.  
17 So, again, I'm going to stand on the order that I set forth  
18 earlier, that the discovery is to be focused on contacts with  
19 this jurisdiction.

20           And, again, if that means that there are questions --  
21 that to some extent there are tentacles that go into other  
22 jurisdictions, then that's fine. But the focus has to be with  
23 this jurisdiction because this is the place that you've chosen  
24 to bring your action and this is the place that you have the  
25 burden of establishing jurisdiction.

1           So to that end, again, I'll give the same, I suppose,  
2 invitation that I gave. I would hope that the counsel in  
3 preparing for these depositions can do so in a manner which  
4 avoids as much as possible needless discovery disputes. But  
5 that being said, the Court will make itself available -- and it  
6 doesn't matter what time of day or night it is -- to answer  
7 these so as to make sure that you get what you need -- that  
8 both sides get what they need in these depositions so as to be  
9 able to supplement your briefs and allow this Court to have the  
10 record before it that it needs to make the determination on  
11 personal jurisdiction.

12           The final point again is as to the deadline, and at  
13 this point I'm sticking with the November 1st deadline. With  
14 all due respect to the Plaintiffs, as early as March 17th --  
15 March 19th of this year the invitation had been made that if  
16 the Court disagrees with the Plaintiff's position that the  
17 jurisdictional discovery should be conducted in Pittsburgh,  
18 which the Court did disagree, the Plaintiffs made themselves --  
19 gave the invitation to the Court, said that they would be  
20 willing to appear in Hong Kong to conduct a deponent's  
21 deposition.

22           I think as part of that statement it was implicit that  
23 counsel for the parties would have the ability to do so  
24 vis-a-vis having a passport. We are now over six weeks after,  
25 past my order giving limited jurisdictional discovery, and two

1 weeks after our last conference, and we still haven't gotten  
2 any progress on getting these depositions scheduled. And,  
3 frankly, I don't think it's -- I don't think it's appropriate  
4 now to put off discovery until after the new year so that  
5 paperwork can be taken care of that, frankly, was a necessary  
6 prerequisite to taking these depositions in Hong Kong as early  
7 as the first moving papers before the Court.

8           Secondly, again, there has been an invitation made  
9 that a videotaped deposition -- or not videotaped -- video  
10 conference deposition would be made available. Federal Rule of  
11 Civil Procedure 30(b) (4) gives the Court the authority to order  
12 depositions to be taken by video conference or other  
13 alternative means. Federal District Courts throughout the  
14 country facing situations like this with witnesses in other  
15 countries -- I've seen Equatorial Guinea, I've seen Pakistan in  
16 some of the cases -- where there's a question as to where  
17 depositions should be taken, have ordered depositions to be  
18 taken in or via simulcast video conference depositions. I'm  
19 not going to order that.

20           Again, I'm going to give the option, if you can do  
21 what you need to do to get these things taken care of before  
22 the deadline the Court set six weeks ago, then you're welcome  
23 to go and do it. Otherwise, I think that you should seriously  
24 consider the offer to have these by video conference  
25 deposition.



1           MR. MACYDA: And, Your Honor, I would just like to go  
2 on record saying that it would be an impossibility for us to  
3 have applied for a visa back in March. The visa process, if we  
4 submitted the declaration, requires putting in dates certain.  
5 So it was not -- you know, when we went from, I think, a  
6 briefing schedule that concluded in March of this year and we  
7 didn't get a ruling, I believe, until towards the back end of  
8 September of this year; and since that point in time, as you  
9 see, the SSG Defendants have been fighting us on the concept of  
10 whether or not you even need to get a visa.

11           And so with that being the case, and our declaration  
12 saying what it says, that -- you know, as soon as we got the  
13 order entered and the discovery disputes with Your Honor, it  
14 would have been an impossibility for us to have made the  
15 November 1 deadline, number one.

16           Number two, I'm not quite sure what the legal basis is  
17 for the rush of wanting to have the depositions scheduled --  
18 excuse me, completed, by November 1. You know, this case is --  
19 you know, we are where we are as far as, you know, the  
20 progression of the case from where we filed it. But, you know,  
21 we have an order saying that we were entitled to go to  
22 Hong Kong and now we effectually do not because we can't get  
23 the -- you know, the visa application, you know, processed  
24 through in time.

25           So, you know, the Plaintiff is going on record saying

1 we respectfully disagree with your Court's opinion.

2 THE COURT: Exception noted.

3 Does Mr. Ginsberg, Mr. Goetz or Mr. Baker have any  
4 response about the issue for the record about the need to have  
5 a work visa to take a deposition in Hong Kong?

6 MR. GINSBERG: Yes, Your Honor. This is Mike Ginsberg  
7 for the record.

8 The Hong Kong Immigration Department Guidebook says  
9 that -- it's Paragraph -- Section 5, Paragraph 13 on Page 6 of  
10 the Guidebook says that a person permitted to enter the  
11 Hong Kong region as a visitor may generally engage in the  
12 following business-related activities. Section B says  
13 certainly compensation for other civil proceedings. We found  
14 in a very short Internet search the opinion of Tanner DeWitt, a  
15 very well-respected Hong Kong law firm, that depositions are  
16 permitted under that provision; and that's consistent with the  
17 rules themselves. And originally I produced that to Mr. Macyda  
18 and, frankly, have been telling them for a number of weeks we  
19 do not believe that a visa is required.

20 We are prepared to go as soon as they want to get them  
21 scheduled to Hong Kong, if they want to have the depositions in  
22 Hong Kong; and will repeat our offer to make the witnesses  
23 available by video conference. We've made that offer  
24 repeatedly for the last many months. But if they want to do it  
25 in Hong Kong, we'll go and do it in Hong Kong. But we don't

1 want to wait -- we don't want to delay the process of getting  
2 this resolved.

3 MR. MACYDA: Your Honor, a brief response to that,  
4 because we just received their position on the handbook three  
5 hours ago -- or roughly four hours ago. The civil proceedings  
6 that they reference, my understanding in talking to my  
7 solicitor, refers to Hong Kong litigation, not US litigation.  
8 So -- and you also notice in Mr. Ginsberg's letter, he  
9 references, you know, that his colleagues have -- in Hong Kong  
10 apparently affirm Mr. Ginsberg's position.

11 Notably, Your Honor, though, none of them were willing  
12 to put that in a declaration, like Mr. Watt did. So what you  
13 have in front of you are hearsay statements from a website and  
14 apparently colleagues of Mr. Ginsberg's in Hong Kong and -- or  
15 you have Mr. Duncan Watt's verified declaration in front of you  
16 that lays out the rough timeline in the process to get into  
17 Hong Kong.

18 And, Your Honor, you know --

19 THE COURT: I guess --

20 MR. MACYDA: Go ahead.

21 THE COURT: No. I guess my issue is this: I mean the  
22 visa is really the second hurdle that you would have to  
23 overcome to take one of these depositions in person. The first  
24 is that despite requesting the Court's -- despite requesting  
25 jurisdictional discovery in representing as early as March that

1 you'd be willing to take it in Hong Kong, you don't even have a  
2 passport to make arrangements.

3 Secondly, these issues were not specifically raised  
4 but for perhaps an addendum to the conversation at the very end  
5 the last time we had one of these meet and confers two weeks  
6 ago. And, thirdly -- I mean this is not a -- an issue of when  
7 general discovery should cut off. This is an issue of whether  
8 this Court can even move into that phase, whether this Court  
9 has jurisdiction, or whether you should be filing this case  
10 somewhere else.

11 And I think that there is -- it has been my effort  
12 since I've become the trial judge on this case to give the  
13 parties attention to the motions that were outstanding, which I  
14 did within two weeks of taking the bench. And my concern is --  
15 is that I believe that in light of the offer for the  
16 depositions to be conducted via live video conferencing, which  
17 has been held both by Rule 30(b)(4) of the Rules of Civil  
18 Procedure as well as numerous District Courts as being a  
19 permissible and sometimes a favorable method of taking  
20 discovery, that I think that the Court is -- the Court is of  
21 the position that the deadline is not going to change.

22 If you can somehow either yourself or through  
23 affiliate counsel take the depositions in person in Hong Kong,  
24 that's great and that's up to you. But if the depositions have  
25 to be taken via video conference, that is an acceptable option

1 both under the rule and the case law and that's the position is  
2 that the Court takes.

3 MR. MACYDA: Just for the record, then, the Plaintiffs  
4 respectfully disagree, Your Honor.

5 THE COURT: Exception noted.

6 If there's nothing else, what we will do is issue  
7 another order recounting and clarifying the Court's decision  
8 again relating back to its September 5th order affording  
9 jurisdictional discovery.

10 MR. GINSBERG: Thank you, Your Honor.

11 THE COURT: Thank you; have a good day.

12 MR. MACYDA: Thank you.

13 (Telephone conference concluded at 2:55 p.m.)

14 C E R T I F I C A T E

15 I, Shirley Ann Hall, certify that the foregoing is a correct  
16 transcript for the record of proceedings in the above-titled  
17 matter.

18  
19  
20 s/Shirley Ann Hall  
21 Shirley Ann Hall, RDR, CRR  
22 Official Court Reporter  
23  
24  
25